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ABSTRACT

This document, part of the Wellesley College (Massachusetts) Center for Research on Women's working papers series, examines the issue of sexual harassment in education. The report explores a number of incidents in which female students have been the targets of unwanted sexual comments, advances, and assaults. Much of the school-based harassment is of a more public nature than other forms, because of the classroom setting. In some cases unwanted sexual advances reach the point of actual physical abuse. In recent years, the failure of school administrators to deal with student harassment and abuse complaints have led victims' families to pursue legal action. Such failures to act may appear surprising in the restrictive and closely censored environment of the school. The incidents of abuse suggest that schools may be breeding grounds for domestic violence and may teach girls to accept assault. The numbers of such reports should motivate school officials to become vigilant, to listen to and believe the girls, and to begin to see what is right in front of their eyes and ears. Twenty-nine endnotes are included. Contains 34 references. (SG)

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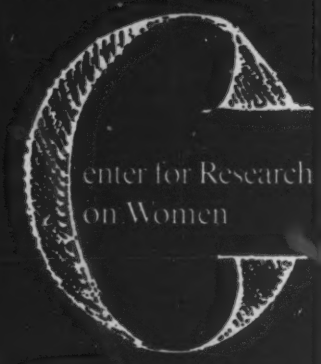

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SECRETS IN PUBLIC:

SEXUAL HARASSMENT IN PUBLIC

(AND PRIVATE) SCHOOLS

by Nan D. Stein

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SECRETS IN PUBLIC: SEXUAL HARASSMENT
IN PUBLIC (AND PRIVATE) SCHOOLS

When I was 13 years old and just starting Junior High School (7th-9th) I started being sexually harassed constantly by a group of guys on my bus. It was horrible. It lasted the whole year and some of 8th grade without anything being done about it. They would grab my breasts, thighs & other places, make rude comments and sexual gestures towards me. When I finally yelled at them to stop, hit them, or moved away, the bus driver would yell at me. (14 year old white girl from a small town in PA)[1]

Even when it is "joking" or casual comments they should be taken seriously by authority figures at the school. For instance; when a teacher told a male student in my Spanish class that he would have to move into the empty seat next to me if he didn't stop talking to his friend the guy said, "Woah, she's too fast for me!" sarcastically. I was really upset about it, but the male teacher let it slide saying that this jerk was joking! After that every other guy in the class thought it was cool to slam all the girls in the class with similar remarks. (15 year old white girl from a mid-sized city in northern New England)[2]

This boy started looking at me, giving me weird looks. Soon he was making fun of me, snapping my bra, calling me a fat horse (when I'm not really fat), pinching me (both on my bottom and on the top), trying to go up my skirt, and the list goes on and on. And, he didn't do it privately either. Once in a classroom, he did a lot of the above and my female teacher sat and watched. How do I know she was watching - I glanced up to see if she would help and I caught her eye! (high school girl from a suburban town in Ohio)[3]

I just wish that someone would make SEXUAL HARASSMENT as big of an issue as AIDS, MONEY & THE PRESIDENT. (15 year old Japanese-Caucasian girl from Hawaii)[4]

Using the Foreground as Background

Sexual harassment is no longer a secret. The subject and its subjects - girls and women - were propelled into the national

consciousness and discourse in the aftermath of the Clarence Thomas/Anita Hill hearings in October 1991. Strengthened by the 9-0 landmark decision of the U.S. Supreme Court in February 1992 in the *Franklin v. Gwinnett County (GA) Public Schools*[5] case, awareness of sexual harassment in schools mushroomed. In the span of five months, the nation received a very public and nationally televised lesson on the subject of sexual harassment, followed by a stern warning to the schools of the country from the U.S. Supreme Court.

These two extremely publicized events raised the nation's collective consciousness about the existence of sexual harassment and moved this formerly secret social problem out beyond the privacy of the schoolyard's gates. Yet, as the statements from the young women at the beginning of this paper vividly indicate, sexual harassment in schools has never been confined to private interactions - rather, sexual harassment operates in full and plain view of others. Boys harass girls, with impunity, while many people watch. Sexual harassment has become ordinary, expected and public.

In schools, sexual harassment happens in full view of others - in public places such as hallways, lunchrooms, physical education classes, on school buses, on school playgrounds, in classrooms and at school sponsored activities. Examples of sexual harassment that happen in public include attempts to snap bras and grope at girls' bodies; to pull down gym shorts or flip up skirts; circulation of "summa cum slutty" or "piece of ass of

the week" lists; designation of special weeks for "grabbing the private parts of the girls;" nasty, personalized graffiti written on the bathroom walls; sexualized jokes and taunts which mock girls' bodies; and outright physical assault and even rape in schools. Many of these behaviors are frequently characterized by school officials as a normal stage in healthy American (read: "male") adolescent development, identified as "flirting" or dismissed as part of acceptable "initiation rites."

This public quality of sexual harassment may in fact create more deleterious ramifications than sexual harassment which happens in private. There are the public humiliations to live through, the dreaded damage to one's reputation, and rumors to fear and combat; and there is also the knowledge that what happens in public, even if not sanctioned, becomes normalized and acceptable with the passage of time. Moreover, there is the expectation that if something scary, unpleasant or illegal is happening in school, especially if it is occurring in public, someone with authority will intervene to stop it, to help out, or at least believe the victim afterwards. Yet, sexual harassment seems for the most part to proceed without adult interventions, thereby exacerbating and broadening its reach and reign of terror. In schools sexual harassment is tenacious and pervasive. It operates as a kind of gendered terrorism.

This paper will describe the public nature of sexual harassment of girls in schools, and girls' recognition that adults see - yet do not believe - that sexual harassment is

happening in their schools, right before their eyes and ears. The voices of adolescent girls resisting this harassment come from lawsuits, face-to-face interviews, and written testimonials and letters. A collective portrait emerges which illustrates the pernicious and persistent nature of sexual harassment in schools - a widespread, endemic phenomena. This paper is a preliminary step in a large multi-year study of sexual harassment in the schools which in its later stages will include quantitative data and suggestions for the elimination and prevention of sexual harassment in schools.

The Public Nature of Sexual Harassment in Schools.

The following are some examples of sexual harassment that happen in public in schools. However, these behaviors for the most part remain unsanctioned and unnamed as sexual harassment.

● "Friday Flip-up Day" is a weekly occurrence at many elementary schools in Montana. Every Friday, boys chase girls around the school playgrounds; those girls who have worn skirts are fair game -- their skirts will be flipped up, not once, but as many times as possible by as many boys as can get them. School administrators from around the state have acknowledged the existence of this weekly activity but have not considered such "child's play" a problem, let alone as sexual harassment. Consequently, they have seen no reason to intervene or to punish the perpetrators. Their silence has allowed this gendered terrorism on the playground to continue over the years to the

point where it has become normalized and expected. (This activity has also been reported to occur at a Catholic elementary school in a large city in Ohio.)

● In physical education classes at an exclusive private school in the East, boys attempt to "droop" (i.e. pull down) girls' gym shorts. Staff at the school are well aware of the practice. Yet, according to the parent of a female student, school personnel do not intervene nor do they appear to deem this behavior unacceptable[6].

● In one boys' bathroom at a high school in Duluth, MN (Minnesota Department of Human Rights, *Lyle v. Independent School District #709*), nasty graffiti targeting one young woman covered the walls of a bathroom stall. Statements like "Katy does it with farm animals," "Katy is a slut," "Katy gives good head," and "Katy sucked my dick after she sucked my dog's dick" remained up on the walls for a period of 16 months, despite repeated requests from Katy and her parents to the principal to have it removed. He said "No one reads it anyhow" and "It'll make you a stronger person." Additionally, he claimed that his hands were tied by the custodians' union contract which only allowed them to paint the walls once every two years; since they had just completed a painting assignment, they could not paint over the graffiti. Boys would yell out across the hallways, "Hey, Katy, I took a leak in your stall today," and girls would wonder aloud what Katy had done to "deserve" this. She was tormented daily on the school bus and as she entered the school. Finally, Katy's brother who

was in college, armed with some sand paper, removed the graffiti in a matter of minutes. Although the physical evidence was removed, the taunting continued and the emotional consequences lingered.

- A 12 year old girl from a suburb of Atlanta writes of a boy who scares her:

> He always sits beside me, and he does little things like play with my hair or he gets way too close... He scratches his jockstrap, shows me dirty mags; he pinches or hits butts, and he says awful things. I'm so scared of how far he might go...[7]

- An 11th grade girl from a mid-sized town in Missouri writes of the fear she felt towards a boy in one of her classes:

> A new guy came to school and we were in band together... I ate together (with him), he was nice and I always try to get acquainted with new people. One day, he grabbed me. I told him to stop and let it slide. From there it got worse. He would force me on his lap and tell me all these things he wanted to do. He'd ask me to have sex with him every day. He'd corner me every time he caught me alone (class, hall, jazz concerts, and trips), and rub against me and thrust his groin into me. One day I went into the music office on an errand. He was sitting in a chair blocking my way to the desk. He grabbed me and tried to stick his finger up my vagina. He kept saying, 'You know you like it. You're just scared.' From then on, I tried to never be alone...I don't want to have to be afraid of one person all year. He asked me where I lived all the time and I have no doubt he could force me to have sex with him. I feel trapped.[8]

- A 7th grade teacher in a large city in the Pacific Northwest reported that a young man in another teacher's class had been stimulating himself in class in such a way that he would get an erection. When he leaned back in his chair and spread his legs, his erection was visible. He would taunt and intimidate the girls who sat near him, telling them the kinds of sex acts that he

wanted them to perform on him. The girls were horrified and distracted yet too embarrassed to tell their teacher, who apparently had not noticed either the boy's behaviors or the girls' reactions. The girls lived silently with these recurring circumstances for months, until one of them informed her parents. Soon afterwards, several sets of parents went the school and demanded an emergency staff meeting[9].

● A 12th grade boy from a city in the mountain west wrote the following statement after participating in a workshop on sexual harassment in November 1991:

> The only Latin teacher in the high school often touches his students. The entire class saw him lay on top of a female student on her desk and rub his private organs against her upper arm. The student became upset, began to cry and left the room in search of the principal. Apparently, the teacher later admitted his guilt to the principal, but received no formal punishment. None of the students who witnessed the incident were either questioned or interviewed by the school authorities or anyone else. Nor were they informed of what were the consequences for the teacher. That teacher still teaches the class and the students who witnessed the incident are still his students. The girl who was involved stayed in the class for a while, but eventually dropped out due to her lingering feelings. She was not able to finish the course with another teacher since there were no other Latin teachers.

These examples are not merely anecdotes or oral histories they are a primer describing the gamut of sexual harassment - from playground games to classroom interactions, from offensive written materials to unwanted touch and assault, intimidation by peers, and disregard and denial from school authorities. These examples suggest a school environment that is hostile and poisoned for girls - one that is clearly not conducive to

learning. The schools that these students describe are unsafe, uncaring and unjust.

Working Definitions: Adult to Student Sexual Harassment and Child Sexual Abuse

Sexual harassment is defined as unwanted and unwelcomed sexual attention. All legal definitions of sexual harassment enable the recipient (i.e., subject/victim) to define whether the attention is unwanted and unwelcomed. This subjective component is built into Equal Employment Opportunity Commission[10] (1980) and Office for Civil Rights[11] (1981) definitions of sexual harassment, as well as into state laws and executive orders issued by governors[12]. The presence or absence of sexual harassment thus depends on the victim's perception of "unwelcomed" sexual behavior. Sexual harassment can range from touching, tickling, pinching, patting or grabbing to comments about one's body, sexual remarks, innuendoes, jokes that cause discomfort, obscene gestures, staring or leering, and even assault and rape.

When the specter or hint of a sexually-tinged physical relationship between a minor and an adult in a school setting emerges, sexual harassment has entered a new domain, that of child abuse and criminal felonious behavior. Even though more is at stake legally for schools, confusion or cover-up seems to be the typical response (*Stoneking v. Bradford Area School District; Franklin v. Gwinnett County Public Schools; J.O. v. Alton*

Community Unit School District; Doe v. Taylor Independent School District). Despite the lack of extensive documented occurrences in public schools (Mawdsley, 1992; Sorenson, 1991; Wishnietsky, 1991; Cohan, 1991), incidents of sexual abuse and sexual harassment happen, and the offenders are frequently clustered in a few particular capacities within the school community. Roles such as coach, physical education teacher, music teacher, driver education teacher and extracurricular club advisor often require individual contact with students, often in private settings, and often in a capacity that builds trust and intimacy between an adult and a student. Although these same adults may serve in a dual capacity as classroom teachers, examples suggest a less frequent occurrence of physical sexual harassment from these individuals when they are in their public classroom roles as opposed to when they are operating in their adjunctive, more private roles (Linn, Stein, & Young, 1992; Stein, 1993).

In cases of alleged child sexual abuse of a minor by a school employee, school officials often bypass the legal requirement to report these allegations to the state agency which is charged with investigating such allegations. School officials sometimes decide that <u>they</u> will conduct the first round of investigation, claiming the need for expediency and the value of their proximity. More likely, the delay or failure to report the allegations may be driven more by their desire not to hang their dirty laundry in public and to protect the accused, one of their own, than to protect the rights of the victim. None of these

motives, however, exempt them from the legal requirement to report allegations of physical, sexual contact between an adult and a student to the proper state authorities who are empowered by law to pursue the investigation.

In the meantime, the presenting problem and conditions fester, spawning an atmosphere that, at a minimum permits and tolerates sexual harassment and discrimination. Such an atmosphere denies students the right to an equal educational opportunity as guaranteed by Federal Title IX[13], and equal protection under the law as guaranteed by the Fourteenth Amendment to the Constitution. Moreover, sex discrimination and sexual harassment teach other lessons:

> Schools become unsafe places; students lose confidence in school policies and trust for school officials. These consequences are felt not only by the victim/subject, but also by the bystanders, be they the "innocent' witnesses or the deliberate colluders, who have now, too, tasted the bitter lessons of sexual harassment" (Linn, Stein, & Young, 1992, p.159).

Prototypical Law Suits

Evidence from lawsuits and complaints to state and federal agencies confirm girls' myriad attempts to draw the attention of adults to the sexual harassment they are experiencing. In the *Stoneking v. Bradford (Pa) Area School District*[14] case which was heard in the Third Circuit in 1989, the young women plaintiffs are on the record with their efforts to inform their school administrators about sexual harassment and molestation from the music teacher/band director. When the principal dismissed their complaints, one of the young women went to the school district's

superintendent. Again, her version of reality was rebuffed and denied. In the decision of the Third Circuit, the court held that public school officials had violated the girl's Fourteenth Amendment right to "liberty" and equal protection when they failed to protect her from sexual abuse. This 1989 decision paved the way for the former high school student to sue both the school district and individual school officials for negligent supervision of the band director who had sexually assaulted her during school sponsored events and trips as well as on school property. (The two other original plaintiffs in this case, had settled out of court for the sum of $700,000 in 1987 by the time the case was first heard at the district court level (Zirkel, 1988)).

Similarly, in *Franklin v. Gwinnett County (GA) Public Schools*, Christine Franklin is on the public record with her efforts to inform her school's officials about the ways a male teacher was harassing her. According to Ms. Franklin, the school officials did nothing to stop the harassment and also tried to dissuade her from filing a complaint with the Atlanta office of the U.S. Department of Education's Office for Civil Rights (Mawdsley, 1992; Zirkel, 1992; Stein 1993).

Two lawsuits - one from the federal district court in southern Illinois and the other one from Sonoma County (CA) District Court - provide more insight into the public nature of sexual harassment and child sexual abuse in the schools.

J.O. v. Alton Community Unit School District

Alton, Illinois, is a working class/lower middle class town, with a population of approximately 33,000, near East St. Louis, Il. The *J.O. v. Alton (Il) Community Unit School District 11* case, begun in 1987, recently completed the discovery phase[15] and reached an out of court settlement on December 2, 1992.

From the depositions taken from the three young women plaintiffs and from school staff, a picture emerged of a negligent school system which tolerated and permitted one male teacher to molest girls in the middle school. "Lester, the Molester," as he was known to the students and to a variety of staff members, chose the very public space of the school cafeteria for his special brand of verbal sexual harassment and child sexual and physical abuse in public.

Lester's molesting behaviors all happened in the lunchroom while he was on cafeteria duty, in full and plain view of others. He would approach a table of girls, and in the words of one of the young women:

> everybody would stop talking... we'd shut up... and start staring at each other. ...he'd always hang around...I was always weary (sic) of him... he'd hug you, pull on you, come up from behind, tickling...trying to touch the side of our breasts.... We'd take our arms and push inward and try to protect our sides - our sides to where he couldn't come up from behind us and stick his hand in between our arms and our breasts (p. 79-83, deposition of S.).

Another girl stated in her deposition:

> He tries to gain your trust through small talk; then he begins to touch your arms and shoulders, tickling you and running his hands up your side...Then he touches your boobs and looks down your shirt (p. 67, deposition of M.).

A third girl described in her deposition the way Lester would squat down at eye level beside their lunch table and walk his fingers up the insides of their thighs, saying "Are you chicken?" (p. 87, deposition of D.).

These adolescent girls did not yell at him or protest to other adults who were present during the time he was harassing them in the lunchroom, a universally very noisy and active public environment. Although each of them had verbally lashed out at him or pushed him away when confronted by him in private (in the halls or in the gym), in public they maintained a collective silence. Their silence may in part have come from their embarrassment and dread of calling attention to themselves as well as from their expectation that the adults in the cafeteria would have intervened on their behalf. All three girls noted in their depositions the presence of other adults in the cafeteria during these occurrences and questioned why none of them had intervened. These girls had learned the bitter lesson that seeing was not believing.

Although the principal recalled Lester's excessive touching, he characterized it as "horseplay" and dismissed it as "basically grabbing them and tickling...And at that time, I did not consider tickling to be sexual harassment" (p. 94, deposition of Mr. Clark, principal). Moreover, he had ignored complaints which had been submitted to him in the past from one male and several female teachers who felt Lester's behaviors were inappropriate and excessive (p. 73, deposition of Clark). Even though a few

teachers did some behind the scenes work which should have corroborated the girls' perceptions of Lester, other teachers left them stranded in public.

When the girls did tell some adults in the school, their appeals were met either with denial or the claim that the listener could not do anything about it. Two of the girls told the female guidance counselor that Lester was touching their breasts. According to the girls' depositions, the guidance counselor tried to convince us that: "Mr. Mann (Lester) was a religious man, and he'd never do anything like this, and this was just unheard of, and it was just us girls getting together trying to get attention" (p. 106, deposition of S); and "He's really a friendly religious man" (p. 87 of deposition of D). The school nurse echoed denial and disbelief, the girls explained that she "...yells at us... tells us that we were responsible for rumors in order to get attention, and blamed us that we would just cause more problems" (p. 125, deposition of S). When the girls told their teachers, they were met with statements like "We can't do anything about it - talk to your parents," (p. 111, deposition of M); and "... maybe the guidance counselor could help" (p. 106, deposition of S). The words of one of the girls best sums up the silence and denial of the adults: "I hated all the teachers because they saw what was going on. They knew and they didn't do anything about it. That was the hardest part because I hated them all, didn't trust them" (p. 126, deposition of M).

The statements that the girls reported the teachers and staff to have made express more than denial and disbelief; they also indicate negligence,[16] a criminal offense. All of these adults had abrogated their responsibilities as "mandated reporters" under the Illinois child abuse reporting law[17] which requires them to report allegations of child sexual abuse to the Illinois Department of Children and Family Services, the agency charged with investigating such charges. All school personnel are mandated reporters and as such must report, not censor or sidetrack, any reports of suspected child abuse.

In summary, this case demonstrates the public nature of the harassment and molestation, and the silence and visible non-intervention on the part of the school authorities who witnessed, suspected or knew of Lester's molestation. The stunning indifference and negligence of school authorities may have permitted and even encouraged Lester's reign of terror of sexual harassment and child sexual abuse.

Brawdy v. Petaluma (CA) City Elementary & Petaluma Union High School District

Another illustrative lawsuit is from Petaluma, CA, a bedroom community of 43,000, north of San Francisco and south of Santa Rosa. An 8th grade girl was repeatedly taunted by boys, who yelled "moo, moo" at her and continued throughout the day to make crude, sexual remarks about her body. Boys, alone or in groups as large as 20, followed her in the halls and teased her during

class and on the bus, making blunt and vulgar references to the size of her breasts and the condition of other parts of her anatomy. The young woman was subjected to this harassment - before, during and after school, on the school bus, in the lunchroom, in the corridors - for the course of the school year 1987-1988. She and her parents reported the harassment to school officials, expecting that administrators would put an end the harassing behaviors. However, according to the family, the school officials did not sanction the boys (Frantz, 1992; Anderson, 1992). Again, the girl's version of what was happening was neither acknowledged nor confirmed by school authorities.

Her parents then filed a Title IX complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education, the federal agency which has jurisdiction for the enforcement of Title IX. After an extensive investigation and interviews with a variety of school community members, OCR found the school district in violation of Title IX. As stated in the summary decision of their finding:

> There can be no doubt that the conduct occurred, and that it continued to occur over the course of more than a year. ... that the harassment was sexual in nature ....that the harassment created a hostile environment which had an adverse effect on Tawnya's ability to benefit from her education (*Brawdy v. Petaluma*, 1989).

The investigation also confirmed that the District knew about the sexual harassment and that some staff members had observed the harassment directly. In fact, the assistant

principal's testimony indicated that she was aware of the harassment as early as the 1986-87 school year and had witnessed it in the cafeteria and in the school yard. Other witnesses to the harassment included the young woman's history teacher, the female assistant principal, the head custodian, and a lunchtime supervisor. The evidence as gathered by OCR also indicated that the principal had been informed of the harassment on at least four occasions by three different people: the head custodian, a substitute teacher, and twice by her parents. According to the OCR report:

> The knowledge of these individuals created a duty on the part of the district to take action to end the harassment... Although the District did respond to reports of the harassment, it failed to take sufficient appropriate action.... The continuity of the harassment should have signaled the principal that the harassment was more serious than implied by a few isolated incidents.

Most astonishingly, the principal did not check with the aggrieved young woman or her parents to find out if the harassment had stopped. He, along with other staff members, regarded the behaviors not as sexual harassment but as "teasing" and saw the behaviors as "isolated incidents." He allegedly told the aggrieved family that he could not stop junior high students from teasing one another. He further suggested that Tawnya be removed from school for a home educational program.

Such callous disregard of the young woman's condition, her experience and the law led OCR in May 1989 to find against the school district and mandate that the school take steps to

remediate the problem. Among the remedial steps were the appointment of a District Title IX Coordinator, establishment of a district-wide grievance procedure for complainants of sex discrimination, and dissemination of the sexual harassment policies to each junior and senior high school. Since these remedial steps were slow in coming, the parents filed a lawsuit in state court in 1991. In late April 1992, the parties agreed to an out-of-court settlement of $20,000.

The two-part Petuluma case is breathtakingly typical in several respects: it shows the reckless indifference on the part of the school officials, and the limited powers of OCR as a route for adjudication for sexual harassment and sex discrimination complaints. The case also reveals the vast amount of denial and trivialization of which school officials and staff are capable when faced with a young woman's story of sexual harassment.

The four lawsuits described in this paper (*Stoneking*, *Franklin*, *J.O.*, and *Brawdy*) tell volumes about the ways in which young women speak up about their experiences of sexual harassment. Over and over again young women - and in some cases their parents - have told authorities in the school community what they were experiencing, yet no interventions on their behalf were forthcoming. Moreover, there is striking symmetry between the findings from these lawsuits and the voices of adolescent girls documented in the previous section of this paper. To continue to ignore these parallels will be at the financial and legal peril of school officials.

Generalizing to the Larger Context: Freedom of Speech and Censorship in Schools

It is critical to place all of these sexually harassing behaviors in the context of the whole school environment and to recall that schools are extremely censored cultures by law, by judicial precedent, and by authoritarian whim. Restrictions of First Amendment privileges (speech and press) and abrogations of Fourth Amendment guarantees against illegal searches have been undertaken by the school authorities with increasing support from the U.S. Supreme Court since the 1980's (freedom of speech in *Bethel School District v. Fraser*, 1986; freedom of the press in *Hazelwood School District v. Kuhlmeier*, 1988; and searches and seizures in *New Jersey v. T.L.O.*, 1985). It is common practice in many schools for students to pass through metal detectors upon entering the school in the morning and to wear or carry picture identification cards; for lockers, backpacks and purses to be searched; and for library books, plays, school newspapers and classroom reading lists to be censored. There is often a dress code which excludes earrings and hats on boys, halter tops and miniskirts on girls and tight designer jeans and tee shirts with rock groups or political slogans on anyone. Given such a censored culture, it is quite startling that sexist and harassing behaviors often escape notice by school authorities.

Furthermore, sexually harassing speech (which includes "symbolic speech" such as posters, pin-ups, lists, plays, skits and the like) may not be protected by the First Amendment if this

sexually harassing speech interferes with a student's right to equal educational opportunity (i.e., an education which is free from sex discrimination). Statements in the work place from bosses who demand "sleep with me or you'll lose your job" and from coworkers who advise "If you want to work here you had better learn to put up with...(fill in the blank)....." have their equivalent in schools, where teachers say things like, "You have a sexy voice," or "Are you ever interested in older men?" and peers feel free to say "nice tits," or ask "wanna fuck?", "you put out?", and "Are you a virgin?"[18] All of these statements are "speech" after all, and speech like this, at least in the work place, has been held by the courts to constitute "environmental" sexual harassment[19] (*Robinson v. Jacksonville Shipyards*, 1991). Similarly, schools are required by law to take a stand against those actions, activities, pranks and expressions which create a hostile and intimidating, (i.e., "poisoned") educational environment, to punish the perpetrators, and to (re)create a school environment which is just, safe, and free from sex discrimination and sexual harassment.

The First Amendment cannot be used as an excuse to permit blatantly sexist and misogynist material to be performed at school-sponsored events. One particularly egregious example has occurred for generations at one of the three high schools in Billings, Montana. As part of an annual school pep rally, members of the boys' basketball team don wigs and skirts, and insert nerf balls that have the nicknames of various girls from

the drill team on them into their shirts. This performance of the "Letterettes" is school-sponsored and is held in the high school during the school day, with required attendance. These boys also perform their "letterette" skit during half-time at several basketball games during the month of February. This custom was first challenged by a parent and her daughter who attended this school, who then found an advocate in a female school board member. However, it was not until several female editors of the student newspaper (Uken, 1990; Warfield, 1991) articulated their objections to this longstanding tradition, concurrent with the arrival of the school's first female principal, that the kickline was eliminated. Certain members of the school board threatened to fire the new principal if she terminated the activity. Despite their threats and other hostile gestures directed towards her at school and at her home, the principal put an end to this public and officially sanctioned harassment of young women in school.

In other schools it is standard procedure for students, albeit without the official approval of the administration, to circulate multiple copies of lists which demean and vulgarize girls. Examples have included: "magna cum slutty"[20] lists at an elite boarding school in the east; "piece of ass of the week"[21] list; and the "25 most fuckable girls" list circulated at Chaska High School, Chaska MN (Minnesota Department of Human Rights, *Olson v. Independent School District #112*; Gross, 1992). In the first instance, the "magna cum slutty" lists were inserted into

the students' mail boxes through the mail room, indicating that whomever distributed the lists had access to the master key which allowed simultaneous entry into all of the mail boxes. Certainly such a prank might give the impression that there was complicity on the part of the school's administrative apparatus.

Seeing Is Not Believing

Girls know that adults see sexual harassment happening in front of their eyes. They expect adults to see and feel it as they do - - and to believe what they are seeing. Yet, many girls cannot get confirmation of their experiences from school personnel because most adults neither recognize it as "sexual harassment" not do anything about stopping it. Insult is thus added to injury, because adults will not confirm that sexual harassment is happening or intervene to stop it.

From both the world of law suits and proof and from the voices of adolescent girls, there are chilling stories which reveal girls' repeated efforts to get adults to see and believe what is happening right before their eyes, and to do something about it. These young women begin to sound strikingly like battered women who are not believed or helped by the authorities and who feel very alone and abandoned:

- Being harassed makes me angry and I feel degraded. I'm always on my guard trying to prevent what may happen next. (13 year old African-American girl from a large city in Texas)[22]

- Finally, I decided to tell the counselor and Dean of Students. I regret it to this day because they made me feel as if I were lying and I felt more interrogated than

listened to. I felt really alone and stupid. (16 year old white girl from a city in North Dakota)[23]

- Finally, I got the courage to do something about it. I told my principal what was happening. He was very skeptical about the whole thing, and he didn't do much about it. I wish I knew I was being harassed and had done something more about it... but I still felt like it was my fault, and I still do a little bit. (14 year old white girl from a small town in PA)[24]

- I also felt embarrassed and mad, but as if it were my fault by being nice or just letting it continue by doing nothing. (14 year old Mexican-American girl from Texas)[25]

- I feel very terrible. I felt it was my fault, but it wasn't. I didn't tell teachers or the principal what happened. I think my problem is being scared. I'm scared they're going to do something worse if I tell. (12 year old Mexican-American girl from Texas)[26]

- I grow angry, sad, and I had wanted to get back at him...I was very speechless and quiet for sometime, I felt like crying but, I kept it inside and didn't say anything to anyone. (12 year old Chinese-American girl from New York City)[27]

- It made me feel cheap, like I was doing something I wasn't aware of to draw this kind of attention to myself. I could never stand up to him because I told him to stop he'd threaten me, so I began to act like it didn't both me.. he'd hit me (hard enough to bruise me twice) and then pin my arms behind my back till it hurt and push against a wall and tell me all the awful things he would do to me if I ever hit him again, so I quit standing up to him again. (14 year old white girl from small town in Michigan)[28]

- After being grabbed in the crotch and then in the butt from two guys, it felt like I had been raped. I know its probably the stupidest thing to say (my friends thought so), but that's how I felt. I was so scared...I actually shook and breathed hard for two days straight. And I was a nervous wreck. Every time a guy looked at me I cowered. I was scared to be alone in class and in the hallways. I constantly wanted my friends to be with me. I couldn't fall asleep at night, because I was shaking so hard and hyperventilating. I didn't trust guys for a while and I felt embarrassed for having it done to me... it was uncontrollable. I really felt used and I wondered when the feeling would go away. (13 year old white girl from suburb of an industrial city in Indiana)[29]

These stories suggest an atrocity of a magnitude not yet widely considered - that schools may be training grounds for the insidious cycle of domestic violence. When sexual harassment is dismissed, girls are trained to accept battering and assault. They are taught that they are on their own, that the adults and others around them will not believe or help them. Similarly, in schools boys receive permission - even training - to become batterers. Indeed, if school authorities do not intervene and sanction the boys who sexually harass, the schools may be encouraging a continued pattern of violence in relationships. The larger societal problems of teen dating violence and domestic violence may in fact be fueled in our schools as sexual harassment. If schools need additional reasons and incentives to take seriously the problem of sexual harassment and to work towards its prevention and elimination, all they need do is to look at the cold hard facts of domestic violence: one million women reported attacks by husbands or lovers in 1991 and there are estimated to be over 3 million unreported attacks (Walker, 1992; Ross, 1992; Hohler, 1992).

If one young woman's story is not enough to motivate the school officials to disrupt this pattern of harassment and abuse, then these numbers should provide the impulse to become vigilant, to listen and believe the girls, and to begin to see and hear what is right in front of their eyes and ears.

NOTES

1. Personal communication, August 1992.

2. Personal communication, August 1992.

3. Personal communication, August 1992.

4. Personal communication, August 1992.

5. *Franklin v. Gwinnett County (GA) Public Schools* decision in the U.S. Supreme Court (112 S. Ct. 1028 (1992) established the right to sue for compensatory damages under Title IX. For the first time in the 20 year existence of Title IX, the federal law which guarantees an educational environment free from sex discrimination and, by implication and interpretation, sexual harassment, schools could be held liable for compensatory damages if they fail to provide an educational environment that was free from sex discrimination.

6. Personal communication on 8/7/92 with a parent whose daughter attends this school.

7. Personal communication, August 1992.

8. Personal communication, August 1992.

9. Personal communication on 8/18/92 with a teacher from this school.

10. *Equal Employment Opportunity Commission Guidelines: (Federal Register, November 10, 1980) 29 C.F.R. Section 1604.11, Part 1604 - guidelines on Discrimination Because of Sex. Section 1604.11 Sexual Harassment.*

> Harassment on the basis of sex is a violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decision affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's

work performance or creating an intimidating, hostile, or offensive working environment. (p.746676)

11. Office for Civil Rights of the U.S. Department of Education issued a policy memorandum in August 1981 and adopted the following working definition of sexual harassment:

> Sexual harassment consists of verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provision of aid, benefits, services of treatment protected under Title IX.

12. Most states have laws and/or governors' executive orders on the prohibition of sexual harassment in employment, in the public sector, and in education. The agencies with oversight and jurisdiction are either the state's Human Rights Commission (for example in Minnesota, Washington State, Montana) or a state-wide equal opportunity office. For example, in Massachusetts, it is called The Massachusetts Commission Against Discrimination; in Rhode Island it is called the State Equal Opportunity Office. In addition, in many states there are Executive Orders issued by the Governors which address sexual harassment in all state agencies:

> For example, in Massachusetts, Executive Order No. 200, by (former) Gov. Edward J. King of Massachusetts on 8/20/81; and reissued by his successor, Michael S. Dukakis as Executive Order No. 240 in 1986; in RhodeIsland, Executive Order No. 91-39, issued October 28, 1991 by Governor Bruce Sundhun.

13. *Federal Title IX of the Education Amendments of 1972, 20 U.S.C. section 1681 (P.L. 92- 318)*:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

14. *Stoneking* sued under *42 U.S.C. section 1983* (below) and the Third Circuit held civil rights action against school officials for establishing and maintaining, with alleged deliberate indifference to the consequences, a policy, practice or custom of failing to take action with respect to complaints of sexual misconduct by teacher which allegedly directly caused former student constitutional harm.

Civil Rights Act of 1871, 42 U.S.C. section 1983:

> Every person who, under color of any statute, ordinance, regulation, custom, usage, of any state or territory, subjects or causes to be subjected, any citizen of the United States or any person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Section 1983, which is a federal statute, provides an avenue of redress for individuals who have been deprived of their federal constitutional or statutory rights at the behest of state authority. Section 1983 provides redress for violation of explicit constitutional rights (e.g., the right to due process) and also of federal statutory rights passed pursuant to constitutional authority.

15. *The discovery phase*: a pre-trial procedure by which one party gains information held by another party; the disclosure by a party of facts, deed, documents, and other such things. The discovery provisions of the federal rules reflect an accommodation between full and open discovery, and safeguard against unwarranted intrusions into the opponent's files (Barrons Law Dictionary, 2nd edition; 1984; Steven Gifis, ed.).

16. "*Negligence*": failure to exercise that degree of care which a person of ordinary prudence ("a reasonable man") would exercise under the same circumstances. The term refers to conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm. It does not comprehend conduct recklessly disregardful of the interests of others.

In the law of torts, the degrees of negligence, in general, are: *Slight Negligence*, which is failure to use great care; *Ordinary Negligence*, which is failure to use ordinary care; and *Gross Negligence*, which is failure to use even slight care. Gross conduct which is willful and flagrant; out of all measure, beyond allowance, not be to excused, as in *gross negligence* (Barrons Law Dictionary, 2nd edition; 1984, Steven Gifis, ed.).

17. *Abused and Neglected Child Reporting Act, Illinois. Revised Statutes, Chapter 23, paragraphs 2051 and all following*; effective 7/1/75/; revised in 1990. According to Illinois regulations, a "mandated reporter" is

> any physician, resident, intern, hospital staff... school personnel, educational advocate assigned to a child pursuant to The School Code... social worker, domestic violence program personnel, registered nurse, licensed practical

nurse..... or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department of Child and Family Services. Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he shall make report immediately to the Department... and may also notify the person in charge of such institution, school, facility or agency or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency... exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department. The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act.... Any person who knowingly or willfully violates any provision of this Section... shall be guilty of a Class A misdemeanor. (*Illinois General Laws, ch. 23, paragraph 2054, section 4.*).

18. Personal communications, August 1992.

19. *Robinson v. Jacksonville Shipyards, Inc.*, 760 F.Supp. 1486 (U.S. District Court, Florida, 1990), using the reasonable woman standard under Title VII, established the precedent of "environmental" sexual harassment: behaviors and/or practices that create a hostile, intimidating or offensive work environment.

20. Personal communication in August 1992 with a young woman whose name had appeared on the list four years ago.

21. Personal communication in August 1992 with a graduate student who had been visiting an elite day school and had seen the lists.

22. Personal communication, August 1992.

23. Personal communication, August 1992.

24. Personal communication, August 1992.

25. Personal communication, August 1992.

26. Personal communication, August 1992.

27. Personal communication, August 1992.

28. Personal communication, August 1992.

29. Personal communication, August 1992.

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